

FILED

JUL 09 2009

DISCIPLINARY BOARD

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re

MARK ALAN SCHNEIDER,
Lawyer (Bar No. 18398).

Supreme Court No. 200701-0

ASSOCIATION'S PETITION
FOR INTERIM SUSPENSION
[ELC 7.2(a)(3)]

Under Rule 7.2(a)(3) of the Rules for Enforcement of Lawyer Conduct (ELC), the Washington State Bar Association (Association) petitions this Court for an Order of Interim Suspension of Respondent Mark Alan Schneider (Schneider) pending cooperation with the disciplinary investigation.

This Petition is based on the Declaration of Disciplinary Counsel Kathleen A. T. Dassel, filed with this Petition.

STATEMENT OF GROUNDS/ARGUMENT

Schneider failed to respond to a grievance filed against him. Then, he failed to appear at a non-cooperation deposition to which he was subpoenaed and personally served.

Schneider failed to produce financial records and other documents in response to a subpoena duces tecum issued by Disciplinary Counsel under ELC 5.3(f)(1). The Association issued the subpoena because Schneider failed to respond to a March 27, 2009 letter and an April 27, 2009 certified letter.

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
2009 JUL 22 AM 7:59
CLERK
MALDARPETEK

The Association needs Schneider's response and records so it can determine the status and location of money belonging to Schneider's deceased client. By refusing to provide the requested documents and appear at deposition, Schneider has impeded and delayed the disciplinary process. Accordingly, the Association asks this Court to order Schneider's immediate interim suspension pending compliance with the Association's investigation.

STANDARD

Under ELC 7.2(a)(3), a respondent lawyer may be immediately suspended from the practice of law when a lawyer fails without good cause to comply with a request from the Association for information or documents or fails without good cause to comply with a subpoena.¹ Schneider's failure to comply with the Association's requests for documents and to comply with a subpoena for deposition, meets this standard.

¹ ELC 7.2(a)(3) provides: Failure to Cooperate with Investigation. When any lawyer fails without good cause to comply with a request under rule 5.3(f) for information or documents, or with a subpoena issued under rule 5.3(f), or fails to comply with disability proceedings as specified in rule 8.2(d), disciplinary counsel may petition the Court for an order suspending the lawyer pending compliance with the request or subpoena. If the lawyer complies with the request or subpoena, the lawyer may petition the Court to terminate the suspension on terms the Court deems appropriate.

EFFECT OF RESPONDENT'S FAILURE TO COOPERATE

The lawyer discipline system provides "protection of the public and preservation of confidence in the legal system." In re Disciplinary Proceeding Against McMurray, 99 Wn.2d 920, 930, 655 P.2d 1352 (1983). Given the limited resources available to investigate allegations of lawyer misconduct, "such investigations depend upon the cooperation of attorneys." Id. at 931.

"Compliance with these rules is vital." In re Disciplinary Proceeding Against Clark, 99 Wn.2d 702, 707, 663 P.2d 1339 (1983). Because Schneider has not produced financial records, including bank statements and trust account materials, and has not appeared for a deposition, the Association has not been able to determine the status and location of money belonging to Schneider's late client. The Association's effective and timely investigation of the grievance and protection of the public has been impeded and delayed.

CONCLUSION

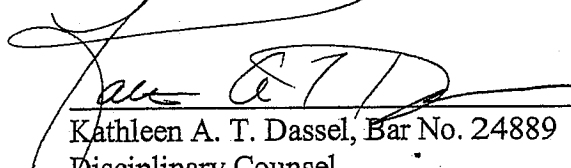
Schneider's failure to cooperate with a disciplinary investigation is an ongoing violation of ELC 5.3. Accordingly, the Association asks the Court to issue an order to show cause under ELC 7.2(b)(2) requiring Mark Alan Schneider to appear before the Court on such date as the Chief

Justice may set, and show cause why this petition for interim suspension should not be granted.

DATED THIS 10th day of July, 2009.

Respectfully submitted,

WASHINGTON STATE BAR ASSOCIATION

A handwritten signature in dark ink, appearing to read 'Kathleen A. T. Dassel', is written over a horizontal line.

Kathleen A. T. Dassel, Bar No. 24889

Disciplinary Counsel

1325 4th Avenue, Suite 600

Seattle, WA 98101-2539

(206) 727-8246

FILED
JUL 09 2009
GOVERNMENT BOARD

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re

MARK ALAN SCHNEIDER,

Lawyer (Bar No. 18398).

Supreme Court No. 200721-0

DISCIPLINARY COUNSEL
DECLARATION

I, Kathleen A. T. Dassel, declare and state:

1. I am the disciplinary counsel assigned to the disciplinary proceedings against Respondent lawyer, Mark Alan Schneider. This statement is submitted in support of the Association's Petition for Interim Suspension.

2. On February 11, 2009, the Association received a grievance filed by the attorney for the Estate of Edna Cooper identifying the failure of Schneider to turn over proceeds in the amount of \$35,000, resulting from a personal injury settlement for Mrs. Cooper, that were the property of the Estate.

3. On March 27, 2009, the Association sent Schneider a letter requesting financial documents, settlement documents, files and other materials within two weeks of the date of the letter. A copy of the letter is attached hereto as Exhibit 1.

4. Schneider did not provide a response or the documents.

FILED
JUL 22 P 2:11
BY [signature]
CLERK OF COURT
STATE OF WASHINGTON

002

5. On April 27, 2009, the Association sent Schneider a certified letter, requesting his response and the documents on or before May 11, 2009. A copy of the letter is attached hereto as Exhibit 2. The letter was received by Schneider on May 21, 2009. A copy of the confirmation of delivery is attached as Exhibit 3.

6. Schneider did not provide a response or the documents.

7. On June 2, 2009, I prepared a subpoena duces tecum compelling Schneider's attendance for a June 18, 2009 deposition. The subpoena duces tecum also compelled the production of certain documents. A copy of the subpoena duces tecum is attached hereto as Exhibit 4.

8. On June 9, 2009, Schneider was personally served with the subpoena duces tecum. A copy of the Declaration of Service is attached hereto as Exhibit 5.

9. Schneider did not appear for the deposition on June 18, 2009, and, as of this date, he has not provided the requested documents.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Seattle Washington
July 10, 2009
Date & Place

Kathleen A. T. Dassel
Kathleen A. T. Dassel, Bar #24889
Disciplinary Counsel

EXHIBIT 1



WSBA

OFFICE OF DISCIPLINARY COUNSEL

Kathleen A. T. Dassel
Disciplinary Counsel

direct line: (206) 727-8246
fax: (206) 727-8325

March 27, 2009

Mark Alan Schneider
PO Box 110996
Tacoma, WA 98411-0996

RE: Grievance filed by Jon Marvin Jonsson
WSBA File No. 09-00236

Dear Mr. Schneider:

Please provide the following materials no later than April 9, 2009:

1. A copy of all documents relating to the PIP file for Edna Mae Cooper, including outstanding liens.
2. A copy of all settlement documents with the third party insurer, Progressive Insurance Company on behalf of Edna Mae Cooper.
3. A copy of your IOLTA bank statement for the month of April 2007.
4. A copy of the complete client ledger for Edna Mae Cooper.
5. Please identify the current status and whereabouts of the \$35,000 in settlement monies obtained from Progressive Insurance Company in April 2007.
6. Please advise the Association if you have obtained or removed your contingent fee share of the settlement monies from Progressive Insurance Company.
7. Please provide your complete file regarding your efforts to obtain UIM benefits from Mutual of Enumclaw.

Thank you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kathleen A. T. Dassel".

Kathleen A. T. Dassel
Disciplinary Counsel

cc: Jon Marvin Jonsson

EXHIBIT 2



WSBA

OFFICE OF DISCIPLINARY COUNSEL

Kathleen A. T. Dassel
Disciplinary Counsel
April 27, 2009

direct line: (206) 727-8246
fax: (206) 727-8325

Mark Alan Schneider
PO Box 110996
Tacoma, WA 98411-0996

CERTIFIED RETURN RECEIPT NO.

Re: Grievance of Jon Marvin Jonsson against Mark Alan Schneider
WSBA File No. 09-00236

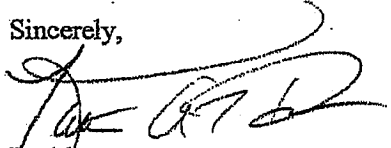
Dear Mr. Schneider:

On March 27, 2009, we asked you to provide a written response concerning the above-referenced grievance and to provide other information and materials, including your complete file(s). To the best of my knowledge, your response, which is required by Rule 5.3(e) of the Rules for Enforcement of Lawyer Conduct (ELC), has not been received.

Under ELC 5.3(e), you must file a written response to the letter of March 27, 2009, and provide the requested documents within ten days after service of this letter, i.e., on or before May 11, 2009. If we do not receive your response within the ten-day period, we will subpoena you for a deposition. If we must serve a subpoena, you will be liable for the costs of the deposition, including service of process, and attorney fees of \$500. ELC 5.3(f)(2).

You should be aware that failing to respond is, in itself, grounds for discipline and may subject you to interim suspension under ELC 7.2(a)(3).

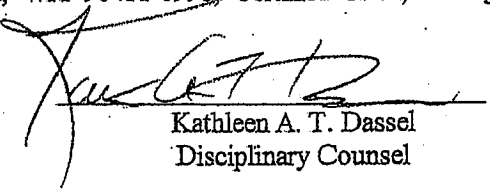
Sincerely,


Kathleen A. T. Dassel
Disciplinary Counsel

cc: Jon Marvin Jonsson

CERTIFICATE OF SERVICE

I certify that I caused the foregoing letter to be mailed to Mark Alan Schneider, Respondent at PO Box 110996, Tacoma, WA 98411-0996, Certified Mail, Postage Prepaid, on the 27th day of April, 2009.


Kathleen A. T. Dassel
Disciplinary Counsel

7008 0500 0002 0255 3522

U.S. Postal Service TM	
CERTIFIED MAIL TM RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Postmark Here	
Sent To <u>Schneider</u>	
Street, Apt. No., or PO Box No. <u>POB 110996</u>	
City, State, ZIP+4	
PS Form 3800, August 2005	
See Reverse for Instructions	

EXHIBIT 3

[Home](#) | [Help](#)[Track & Confirm](#)

Track & Confirm

Search Results

Label/Receipt Number: 7008 0500 0002 0255 3522

Service(s): Certified Mail™

Status: Delivered

Your item was delivered at 8:57 AM on May 21, 2009 in TACOMA, WA 98413.

Track & Confirm

Enter Label/Receipt Number.

[Site Map](#)[Customer Service](#)[Forms](#)[Gov't Services](#)[Careers](#)[Privacy Policy](#)[Terms of Use](#)[Business Customer Gateway](#)

Copyright© 2009 USPS. All Rights Reserved.

No FEAR Act EEO Data

FOIA

Public Information
Tracking InformationBusiness Customer Gateway
Tracking Information

EXHIBIT 4

1
2
3
4
5
6 BEFORE THE
7 DISCIPLINARY BOARD
8 OF THE
9 WASHINGTON STATE BAR ASSOCIATION

10 In re

11 Mark Alan Schneider,
12 Lawyer (Bar No. 18398).

WSBA File No. 09-00236

SUBPOENA FOR DEPOSITION AND FOR
THE PRODUCTION OF DOCUMENTS

13 THE STATE OF WASHINGTON TO: Mark Alan Schneider

14 YOU ARE HEREBY COMMANDED under Rules 5.5 and 5.3(f) of the Rules for
15 Enforcement of Lawyer Conduct (ELC) to be and appear at the Washington State Bar
16 Association offices, 1325 4th Avenue, Suite 600, Seattle, WA 98101, on June 18, 2009 at 10:00
17 a.m. to testify in investigatory proceedings being conducted by the Washington State Bar
18 Association. The testimony will be recorded by a certified court reporter.

19 YOU ARE FURTHER COMMANDED to bring the following with you at the above
20 time:

21 1. Your complete file and whatever documents may be in your possession or control
22 relating to your representation of Edna Cooper, and all financial records, including trust
23 account and client ledgers, canceled checks, and bank statements relating to funds received in
24 connection with your representation of Mrs. Cooper.

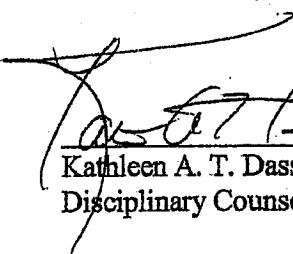
2. A copy of all documents relating to the PIP file for Edna Mae Cooper, including outstanding liens.

3. A copy of all settlement documents with the third party insurer, Progressive Insurance Company on behalf of Edna Cooper.

4. Copies of your IOLTA bank statements from April 2007 through May 2009.

5. A copy of the complete client ledger for Edna Mae Cooper.

Dated this 2nd day of June, 2009.


Kathleen A. T. Dassel, Bar No. 24889
Disciplinary Counsel

CR 45 Sections (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court shall enforce this duty and impose upon that party or attorney in breach of his duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days; after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the premises except pursuant to an order of the court by which the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce and all other parties, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it;

(i) fails to allow reasonable time for compliance;

(ii) fails to comply with RCW 5.56.010 or subsection (e)(2) of this rule;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden, provided that, the court may condition denial of the motion upon a requirement that the subpoenaing party advance the reasonable cost of producing the books, papers, documents, or tangible things.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT 5

1
2
3
4
5
6 BEFORE THE
7 DISCIPLINARY BOARD
8 OF THE
9 WASHINGTON STATE BAR ASSOCIATION

10 In re

11 MARK A. SCHNEIDER
12 Lawyer (Bar No. 18398).

File No. 09-00236

DECLARATION OF SERVICE OF
JUNE 2, 2009 LETTER AND SUBPOENA

13 1. I am over the age of eighteen years and am competent to testify if called as a
14 witness in these proceedings. I make the statements in this declaration from personal
15 knowledge.

16 2. I am employed as an Investigator for the Office of Disciplinary Counsel,
17 Washington State Bar Association. I am not a party to and do not have a personal interest in the
18 above-captioned matter.

19 3. On June 5, 2009, at approximately 1:20 p.m., at the Kitsap County Courthouse, 614
20 Division Street, Port Orchard, WA 98366, I served true and correct copies of correspondence
21 dated June 2, 2009 and Subpoena for Deposition on Mark A. Schneider personally.

22 I declare under penalty of perjury under the laws of the State of Washington that
23 the foregoing is true and correct.

24 6-9-09 SEATTLE, WA
Date and Place


Scott O'Neal



WSBA
OFFICE OF DISCIPLINARY COUNSEL

200721-0

Kathleen A. T. Dassel
Disciplinary Counsel

direct line: 206-727-8246
fax: 206-727-8325

July 16, 2009

Ronald R. Carpenter, Clerk
Supreme Court of Washington
Temple of Justice
PO Box 40929
Olympia, WA 98504-0929

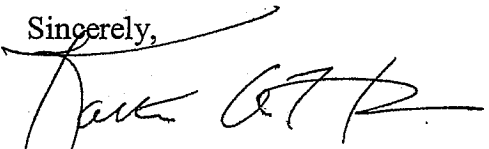
Re: In re Mark A. Schneider, WSBA No. 18398

Dear Mr. Carpenter:

Enclosed is a declaration of service of process showing personal service on Mr. Schneider of the previously filed Petition for Interim Suspension.

Please present this document to the Chief Justice for appropriate action.

Sincerely,


Kathleen A. T. Dassel
Disciplinary Counsel

Enclosures

cc: Mark A. Schneider
Public Bar File

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
2009 JUL 28 AM 9:13
OF RONALD R. CARPENTER
CLERK

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
2009 JUL 29 AM 8:13
CLERK RONALD M. FENTER

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

MARK A. SCHNEIDER

Lawyer (Bar No. 18398).

File No. 09-00236

DECLARATION OF SERVICE OF
ASSOCIATION'S PETITION FOR
INTERIM SUSPENSION AND
DECLARATION OF DISCIPLINARY
COUNSEL

1. I am over the age of eighteen years and am competent to testify if called as a witness in these proceedings. I make the statements in this declaration from personal knowledge.

2. I am employed as an Investigator for the Office of Disciplinary Counsel, Washington State Bar Association. I am not a party to and do not have a personal interest in the above-captioned matter.

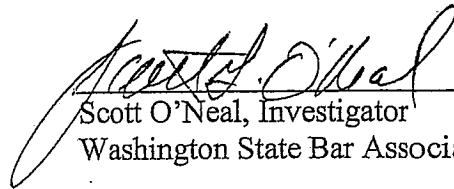
3. On July 16, 2009, at approximately 12:10 p.m., at 18427 International Blvd, Seatac, WA, I served true and correct copies of the Association's Petition for Interim Suspension and Declaration of Disciplinary Counsel on Mark A. Schneider personally.

//

//

1 I declare under penalty of perjury under the laws of the State of Washington that
2 the foregoing is true and correct.

3 7-16-09 SEATTLE, WA
4 Date and Place


5 Scott O'Neal, Investigator
6 Washington State Bar Association
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24



WSBA
OFFICE OF DISCIPLINARY COUNSEL

Kathleen Dassel
Disciplinary Counsel

200721-0
direct line: 206-727-8246

fax: 206-727-8325

July 21, 2009

Ronald R. Carpenter, Clerk
Supreme Court of Washington
Temple of Justice
PO Box 40929
Olympia, WA 98504-0929

2009 JUL 22 AM 7:58
CLERK
RONALD R. CARPENTER
STATE OF WASHINGTON
CLERK


Re: In re Mark Schneider, WSBA No. 09-00939
Public No. 09#00048

Dear Mr. Carpenter:

Enclosed is a Petition for Interim Suspension of Mark Schneider, with the following attachment:

1) Disciplinary Counsel Declaration with attached subpoena duces tecum.

Sincerely,


Kathleen Dassel
Disciplinary Counsel

Enclosures

cc:

Public Bar File